



## COMPLAINTS & DISCIPLINARY POLICY AND PROCEDURE

### Approval

<i>Approved by (role)</i>	<i>Department Owner</i>	<i>Date</i>
Standards Committee Board	Richard Evans	24/01/19

### Document History

<i>Version</i>	<i>Summary of Changes</i>	<i>Document Status</i>	<i>Date</i>
v1.0	Re- written procedures	Draft	17/08/16
v2.0	Amendments to Annex B&C to reflect current practice. Addition of Vexatious complaints section. Amendments regarding the composition of case panels. Clarification in 4.3 regarding complaints against BG Staff	Live	05/12/17
v3.0	Amendment to definitions of Vexatious and Persistent complaints as per Board feedback.	Live	20/02/18
V4.0	Full review by Integrity team and scenario testing updates and changes made to tighten up and streamline procedures and to reflect changed staff roles	Live	13/03/19

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[All previous procedures are superseded by this version with effect from 13<sup>th</sup> March 2019]

## 1. Background

- 1.1 The British Amateur Gymnastics Association ("British Gymnastics") is committed to providing a fair, consistent and proportionate approach to the handling of Complaints.
- 1.2 For the purpose of this document a "Complaint" is any communication to BG from which it appears that there has or may have been a breach of the Articles of Association, Membership Rules, Standards of Conduct or BG Policies, whether expressed as a complaint, disclosure, grievance, allegation, query or expression of concern or identification of an issue.
- 1.3 The Complaints and Disciplinary Policy and Procedure (the "Procedure") is designed to provide an open and transparent route for Complaints made under this procedure to be resolved fairly within a reasonable period.
- 1.4 As the governing body, British Gymnastics' approach is to focus on the most serious breaches of standards of conduct that may give rise to questions about a member or organisation's suitability to participate in the sport, whilst providing support to registered organisations to manage the lower level breaches.
- 1.5 Where a Complaint necessitates formal disciplinary proceedings, British Gymnastics shall exercise its disciplinary powers in the manner set out in this Procedure.
- 1.6 Included herein is the ability to enable a process for the consideration of Complaints that give rise to concerns about an individual's suitability to be working or volunteering with children, young persons and/or adults at risk within the sport.
- 1.7 It is our intention to promote a culture where it is safe and acceptable for any person to raise any complaints or concerns including those of poor practice, bullying or harassment, neglect, grooming, abuse or other forms of misconduct. No person should be victimised for raising concerns or making a Complaint.
- 1.8 British Gymnastics requires members and registered or affiliated organisations to co-operate in any Complaints investigation, where requested, to participate in interviews; to provide information and/or statements or any other information believed to be in their possession or knowledge and to attend hearings to give evidence. Members or those representing British Gymnastics registered or affiliated organisations who fail to comply with these requirements, may themselves be subject to disciplinary action.
- 1.9 Subject to the reporting of any decision by the Case Management Team ("CMT"), Case Panel or Appeal Panel and with the exception of communications with appropriate authorities, in pursuit of legal obligations, all investigations, communications and proceedings relating to safeguarding complaints under the Procedure shall be conducted in confidence, with all parties involved subjected to an obligation of confidence. All and any hearings shall be held in private.
- 1.10 The Standards Committee of British Gymnastics may amend this document as it sees fit from time to time. Any such amendments shall come into full force and effect upon the date specified by the Standards Committee. The version in force is published on the British Gymnastics website. Any existing Complaints where disciplinary proceedings have already been

instigated prior to the introduction of this version of the Procedure will be conducted in accordance with the version of the Procedure that was in force at the time that proceedings were instigated.

- 1.11 Nothing in this document overrides, amends or waives any provision in the Constitution of the Association or restricts the rights of British Gymnastics or the Board to make or amend Regulations or other Bye-Laws or to manage the business of British Gymnastics as they think fit.
- 1.12 The laws of England and Wales shall apply in relation to these Procedures and to any legal dispute arising from these.

## 2. Interpretation

- 2.1 The “Complainant” is the individual or organisation who has raised the Complaint.
- 2.2 The “Respondent” is the individual or organisation against whom a Complaint is made and/or against whom disciplinary proceedings are brought.
- 2.3 Where referenced, a “working day” means a day other than a Saturday or Sunday or a recognised public holiday in the UK.
- 2.4 “Delegation of CEO /Powers” refers to any act carried out on behalf of the Chief Executive by his or her direction.

## 3. Jurisdiction

- 3.1 The British Gymnastics Articles, its Rules and Regulations and the various conditions of membership, registration and affiliation, require that all members, registered clubs and those associated with clubs as members and all affiliated associations and those associated with affiliated associations as members, comply with Regulations made by the Board and conduct themselves in accordance with the Standards of Conduct, Membership Rules and all and any other relevant British Gymnastics Policies.
- 3.2 Although British Gymnastics has jurisdiction over the persons and organisations set out in paragraph 3.1 above, registered clubs and affiliated associations may have their own disciplinary jurisdiction over such persons and organisations. In such a case, where both British Gymnastics and a registered club or affiliated association have jurisdiction over a matter, British Gymnastics will not usually consider the matter until the organisations own complaints procedures have been exhausted with the exception of safeguarding cases that meet a statutory reporting threshold. The CMT may, in its sole discretion on behalf of British Gymnastics, determine that the matter shall be dealt with by British Gymnastics or the registered club and/or affiliated association(s) under local complaints procedures.
- 3.3 Where a registered club or affiliated association requests that British Gymnastics deals with a matter, the CMT, in its sole discretion, determine whether it has the jurisdiction to do so.

- 3.4 Where a club is in dispute with another club or one of its own members, British Gymnastics is unable to intervene unless the club or the member is in breach of the Standards of Conduct or any other British Gymnastics Policy or Code of Conduct.

#### 4. Summary and Scope

- 4.1 These Procedures shall apply to:
- 4.1.1 Complaints of alleged breaches of British Gymnastics Governance Articles of Association, Membership Rules, Standards of Conduct or British Gymnastics Policies.
  - 4.1.2 Complaints that raise safeguarding concerns.
  - 4.1.3 Any other matter that the CMT, in its sole discretion, considers may constitute misconduct or give rise to safeguarding concerns or should otherwise be dealt with under this Procedure.
- 4.2 These Procedures do not apply to disciplinary action contemplated or taken by British Gymnastics against employees of British Gymnastics, concerning matters arising while in the course of their employment. However, where formal action is taken against British Gymnastics employees in the course of their employment, resulting in any form of sanction that impacts on their ability to continue with British Gymnastics membership, this can be addressed under these procedures.
- 4.3 These Procedures do not apply to complaints about British Gymnastics services. Any complaints concerning these matters should be addressed initially through the British Gymnastics Customer Complaints and Resolutions Policy. Complaints about British Gymnastics staff members should be directed to the HR department at [hr@british-gymnastics.org](mailto:hr@british-gymnastics.org). Complaints about anti-doping or selection decisions will be addressed in line with the relevant policy.
- 4.4 British Gymnastics procedures are not an alternative way of addressing criminal offences. British Gymnastics encourages complainants to report allegations or suspicions of a criminal nature to the police in the first instance. British Gymnastics itself will involve the statutory authorities in appropriate matters. British Gymnastics will support the police with any resulting investigation in line with its legal obligations. The CMT will exercise its discretion when deciding whether to consider the Complaint before any criminal proceedings have concluded and may liaise with the police in this regard.
- 4.5 While British Gymnastics will always consider any anonymous information where a child may be at risk of harm, it may not be able to progress anonymous complaints.
- 4.6 It is normally necessary to identify the complainant to provide the Respondent with a clear understanding of the allegations and ensure procedural fairness. In some situations, it may be possible to keep the details of a complainant confidential (where there is a good reason for concern and/or the identity of the complainant is not material to the case or anonymity has been requested), but this is sometimes not possible as the complainant's identity may be apparent from the details of the complaint provided to the Respondent.

- 4.7 These Procedures describe:
- 4.7.1 The process by which Complaints under this Procedure may be made to British Gymnastics, how they are assessed and investigated and how they are considered at a preliminary stage to assess whether formal disciplinary action should be taken.
  - 4.7.2 The alternative routes that may be followed before, or in place of, formal disciplinary proceedings.
  - 4.7.3 Who is authorised to take disciplinary action, to initiate disciplinary proceedings and present particulars of the Complaint to those responsible for determining disciplinary proceedings.
  - 4.7.4 Who will hear and determine formal disciplinary proceedings and the way in which those hearings and proceedings are to be conducted.
  - 4.7.5 The process for considering Complaints where it is reasonably believed that an individual may present a risk to children, young persons and/or adults at risk and the controls that can be applied.
  - 4.7.6 The sanctions and other actions which may be taken by British Gymnastics where it is determined or agreed that misconduct has occurred.

## 5. **Parties involved in Complaints and Disciplinary process**

- 5.1 The following have the power to act upon Complaints:
- 5.1.1 The British Gymnastics Integrity Unit is the first point of contact for all Complaints under this procedure.
  - 5.1.2 The Case Management Team (CMT) are a cross-departmental group of employees of British Gymnastics designated by the CEO as having responsibility for determining the jurisdiction and approach to complaints in accordance with the terms of reference set out in Annex A.
  - 5.1.3 Lead Officers are members of the CMT, designated as having responsibility for a specific Complaint and are responsible for the management and conduct of the investigation, the compilation of a report and presentation of the case. Lead Officers may delegate part or parts of their duties.
  - 5.1.4 The Case Panel will be made up of at least three individuals appointed by the person designated by the CEO to deal with disciplinary matters in accordance with the terms of reference set out in Annex B. Members of the Case Panel will be selected for their expertise and knowledge in relation to the case(s) in question. The panel may also include members who have technical knowledge of gymnastics and/or sport in general.

- 5.1.5 The Case Officer is the person who will prepare and conduct the presentation of the case before a Case Panel. The CEO or delegated officer may appoint the Lead Officer or some other person to act as the Case Officer in any case.
- 5.1.6 A barrister or solicitor may be appointed to be the Case Officer. The Respondent shall be advised if such an individual is appointed at least fourteen days prior to the hearing.
- 5.1.7 The CEO or delegated officer may change the appointed Case Officer at any time. The Respondent shall be advised if such a change has been made, at least 14 days prior to the hearing wherever possible.
- 5.1.8 The Chair of the panel will operate in accordance with the terms of reference set out in Annex B and will:
  - 5.1.8.1 Consider Complaints referred to it pursuant to these Procedures and may impose sanctions in respect of any misconduct.
  - 5.1.8.2 Consider the suitability of an individual in relation to safeguarding, or any breach of conduct, and make suspension and/or revocation decisions or impose control measures where it is deemed that there is capacity to manage a risk presented by a Respondent.
- 5.1.9 The Appeal Panel will be made up of at least three individuals, who will be appointed by the CEO or his/her delegated authority to hear and determine an appeal against the decision and/or sanction of the Case Panel in accordance with the terms of reference set out in Annex C. Members of the Appeal Panel will be selected for their expertise and knowledge in relation to the case(s) in question but will not have been involved in the case in any way previously. The panel may also include members with a technical knowledge of gymnastics and/or sport in general.
- 5.1.10 The Appeal Officer is the person who will prepare and conduct the presentation of the case before an Appeal Panel. The CEO may appoint the Lead Officer or some other person to act as the Appeal Officer in any case.
- 5.1.11 A barrister or solicitor may be appointed to be the Appeals Officer. The Respondent shall be advised if such an individual is appointed at least fourteen days prior to the hearing.
- 5.1.12 The CEO, delegated officer, Lead Officer, or the CMT may change the appointed Appeal Officer at any time. The Respondent shall be advised if such a change has been made, at least 14 days prior to the hearing.
- 5.1.13 A British Gymnastics member of staff appointed as Panel Secretary, or an appointed individual/organisation, where appropriate, will provide administrative support to the CMT, the Case Panel or the Appeal Panel.

## 6. Process of a Complaint

- 6.1 Any Complaint pursuant to this document received by British Gymnastics, will be referred to the Integrity Unit who will make an initial assessment of the Complaint to determine whether the matter falls under the jurisdiction of these Procedures.
- 6.2 If a Complaint falls outside the jurisdiction of these Procedures, it will be referred to the relevant organisation or British Gymnastics department to be dealt with appropriately.
- 6.3 Assuming the Complaint falls under the jurisdiction of these Procedures, the Integrity Unit will assess the seriousness of the Complaint and may:
  - 6.3.1 Confirm the identity of the Lead Officer for the Case.
  - 6.3.2 Dismiss the complaint as unfounded or as insufficiently serious to require any further action by British Gymnastics.
  - 6.3.3 Refer the complaint to another organisation or British Gymnastics department.
  - 6.3.4 Proceed with initial enquiries to help determine whether a full investigation is required.
  - 6.3.5 Refer the complaint to the CMT.
  - 6.3.6 Report the issue to the relevant statutory authority.
- 6.4 Should the Complaint be referred to the CMT they will determine the following:
  - 6.4.1 If any interim protective measures e.g. temporary suspension in accordance with section 7 of these Procedures need to be put in place
  - 6.4.2 Whether the matter meets the threshold for referral to the Police, Local Authority Designated Officer/Children's Services or another organisation as may be appropriate.
  - 6.4.3 The investigation plan and parameters of the investigation.

### Investigation

- 6.4 The Lead Officer shall be responsible for arranging and supervising an investigation. This may be carried out by a nominated Investigating Officer, a Welfare Officer or an independent investigator appointed by British Gymnastics. The investigator will also liaise with statutory agencies as necessary and obtain copies of any relevant evidence/information necessary for these proceedings, subject to Data Protection release and agreement from the agency that we are able to proceed with this process.



- 6.5 The Lead Officer should ensure the timescales for the investigation are communicated to the Complainant, the Respondent and club(s), as well as keeping them informed of progress of the investigation as it proceeds.
- 6.6 The Lead Officer may request any British Gymnastics member or individual on behalf of a registered or affiliated organisation to make written or oral representations. Failure to cooperate with a request to participate in an interview may itself be considered misconduct.
- 6.7 The Lead Officer will ensure details of the complaint and any relevant additional material is shared with the Respondent unless the CMT determines that disclosure of specific information may place any person or persons at risk of harm and/or revealing it to the individual may amount to a criminal offence and/or amount to an unwarranted infringement of privacy or might otherwise be unlawful.
- 6.8 The Respondent will be interviewed where necessary and/or given a full opportunity to provide any written representations and evidence in response to the Complaint.
- 6.9 The Lead Officer shall collate all evidence and prepare a summary of the Complaint and evidence, including any relevant information held on file by British Gymnastics, for consideration by the CMT.

#### **Possible Actions**

- 6.10 The CMT will review the evidence and may take one or more of the following actions:
  - 6.10.1 Refer the matter to the Police, Local Authorities Designated Officer or Children's Social Care or such other organisation(s) as may be appropriate.
  - 6.10.2 Carry out further investigations.
  - 6.10.3 Require protective measures.
  - 6.10.4 Recommend that no further action be taken.
  - 6.10.5 Impose limited sanctions including, but not limited to:
    - 6.10.5.1 Removal of eligibility to participate in or be selected for competition or other gymnastics-related activity for a specified period of up to 12 months.
    - 6.10.5.2 Suspending or removing from office one or more officials of an organisation.
    - 6.10.5.3 Withdrawal of some or all gymnastics-related financial support or membership related benefit.
    - 6.10.5.4 Conditions relating to the Respondent's participation in gymnastics related activities.
    - 6.10.5.5 First formal warning.

- 6.10.5.6 Final formal warning.
- 6.10.5.7 Imposition of a Fine (of an amount to be determined by the CMT) payable to a sports charity to be nominated by British Gymnastics.
- 6.10.6 Require the Respondent to make improvements which may include but is not limited to:
  - 6.10.6.1 A personal development plan.
  - 6.10.6.2 Requirement to complete a period of mentoring and/or supervision and/or monitoring.
  - 6.10.6.3 Requirement to prove competence for any gymnastics-related activity.
  - 6.10.6.4 Advice or directions on future conduct.
  - 6.10.6.5 Engaging a relevant official, employee or other service provider.
  - 6.10.6.6 Requiring a person or organisation to modify the way in which it operates.
- 6.10.7 Agree control measures designed to limit the safeguarding risk or potential of, posed by the Respondent or any other individual (subject to the full co-operation of the Respondent and/or the registered or affiliated organisation).
- 6.10.8 Require the Respondent (and/or any other relevant individual(s)) to undergo a criminal record check.
- 6.10.9 Require the Respondent to undergo a risk assessment conducted by a person specified by British Gymnastics.
- 6.10.10 Conclude that there is sufficient evidence to refer the matter to the Case Panel for a formal disciplinary procedure.
- 6.10.11 Conclude that there is reasonable cause to believe that a child, young person or adult at risk, might be at risk and refer the matter to the relevant statutory agency and/or Case Panel for consideration.
- 6.10.12 Any other action the CMT thinks appropriate, up to but not including exclusion of membership.
- 6.10.13 In cases where the respondent is in breach of the Membership Rules, the CMT may recommend expulsion to the Board

**Associated Costs**

- 6.11 Any costs associated with the completion of actions at 6.10.5 -6.10.9 inclusive and/or 6.10.12 will be at the expense of the Respondent required to carry out the action unless otherwise specified by the CMT.

#### **Communication**

- 6.12 Once the CMT has reached a decision it shall advise the Respondent within 14 days and provide written reasons for the decision.
- 6.13 The Complainant(s) will be provided with an appropriate summary of the outcome.

#### **Appeals**

- 6.14 A Respondent may appeal any sanction of the CMT imposed under 6.10.5 and 6.10.6. To exercise this right of appeal, a Respondent should submit full written details within 14 days of receiving notification of the CMT's decision. Such appeals will be considered by the Case Panel in line with their procedures and all decisions will be final and binding.
- 6.15 CMT may at its absolute discretion, agree to review the outcome and/or investigation of a complaints or disciplinary procedure by a registered club or affiliated organisation

#### **Referral for consideration by the Case Panel**

- 6.16 The CMT is responsible for determining whether a complaint is sufficiently serious that it should be referred to the Case Panel for consideration under this procedure.
- 6.17 The CMT may refer complaints to the Case Panel for consideration under the disciplinary procedures where the CMT concludes at its absolute discretion that the standard of conduct of the Respondent has fallen seriously below the expected standard.
- 6.18 The CMT may refer complaints to the Case Panel for consideration under the safeguarding procedures where the CMT reasonably believes that the Respondent is, or may present a risk of harm to a child or children, young person(s) and/or any adult(s) at risk.
- 6.19 Referrals to the Case Panel may also be initiated following a risk assessment, disclosure of content on a criminal record check e.g. convictions, cautions, warnings and relevant soft information and where any other information comes to light that suggests that the individual may be unsuitable or pose a risk to work or volunteer with children, young persons and/or adults at risk.
- 6.20 Where the matter is referred to the Case Panel for consideration, the CMT may request any person to make written or oral representations or provide evidence concerning the matters under consideration and shall allow the Investigating Officer and the Respondent to comment on any such additional material considered by the Case Panel.

## **7 Temporary Suspension pending Investigation**

- 7.1 The CMT or Case Panel may, at any time prior to the determination of a Complaint, suspend the membership or registration of a Respondent or any part or parts of the rights or benefits of a Respondent if there are reasonable grounds to believe that one or more of the following is applicable:
- 7.1.1 Children, young person(s) or adults at risk are considered to be at risk.
  - 7.1.2 It is necessary for the protection of other persons.
  - 7.1.3 The Complaint against the Respondent would, if established and upheld, result in the revocation of membership.
  - 7.1.4 The reputation of British Gymnastics, an affiliated association or a registered club could be harmed if the Respondent is not suspended.
  - 7.1.5 The continued involvement of the Respondent might impede enquiries and/or the investigation.
  - 7.1.6 Risks identified by a risk assessment undertaken under paragraph 6.10 or otherwise are such that suspension is appropriate.
- 7.2 Suspension in these circumstances is not a disciplinary sanction. Disclosure of a temporary suspension will include notification to the Chair of any affiliated association and to officers of the club(s) or other organisations involved in gymnastics with whose activities the Respondent is concerned. This is communicated by British Gymnastics on a need to know basis.
- 7.3 The Lead Officer will maintain a record of those to whom the suspension has been disclosed. Disclosure may be made to anyone having a reasonable need to be aware of the circumstances.
- 7.4 Where the Respondent is the subject of a temporary suspension, the Safeguarding & Compliance Team will review the suspension at regular intervals and update the Respondent as to the review outcome. Where the temporary suspension has been in place for at least six months, or as the case may be, six months since the last review, the Respondent has the right to request a review of the temporary suspension by submitting full written reasons for the review to the CEO or a person delegated by him or her. The CEO or person delegated shall review the temporary suspension upon receiving the request for the review and communicate the outcome of the decision in writing usually within seven days of the request having been made. The decision of the CEO or delegated person on the review of the temporary suspension shall be final and shall not be the subject of any appeal.
- 7.5 Support to the Respondent shall be provided by the provision of appropriate advice and guidance.

- 7.6 While a temporary suspension is in place the subject's membership status will be 'suspended member'. A suspended member shall be a member, subject to the same rules and standards of conduct as all members of British Gymnastics but may not renew their British Gymnastics membership for the duration of the suspension and then only when British Gymnastics confirms that any and all conditions attached to the lifting of their suspension have been complied with.

## 8. Disciplinary Procedures

- 8.1 Where the CMT considers a Complaint should be put before the Case Panel for the purposes of a disciplinary hearing and/or the Respondent may be unsuitable to work or volunteer with children, young persons and/or adults at risk, the Lead Officer shall write to the Respondent setting out the allegations(s), the information upon which they are based and any additional documents on which the enquiry will rely.
- 8.2 The Lead Officer shall prepare a report of the Complaint and any other relevant information, including relevant details of any previous complaints and/or concerns. The report may be in such form and prepared by any person, as the Lead Officer, at his/her discretion, considers appropriate but should usually include:
- 8.2.1 Details of the nature of the Complaint and any previous safeguarding concerns and any relevant evidence.
  - 8.2.2 An assessment of the seriousness of the concerns and who is or may be at risk of harm.
  - 8.2.3 Whether suspending or revoking membership is a proportionate measure based on the assessment of the risk of harm that the respondent presents.
  - 8.2.4 Whether any alternative measures can be imposed to reduce the risk to a manageable level.
  - 8.2.5 The details of any other relevant information including statements, reports etc. and a summary of what the evidence shows.
- 8.3 If applicable, the Respondent will be provided with a copy of the Lead Officer's report and any other written material that the CMT has considered when making the referral to the Case Panel, save for any material that, if provided could, in the view of the CMT, place an individual at risk of harm from any person or persons, and/or revealing it to the Respondent may amount to a criminal offence, otherwise be unlawful or adversely impact on a police investigation.
- 8.4 Unless otherwise agreed by the CMT, the Respondent will have 14 days to respond and provide any further written representations or evidence, or to raise questions or challenges concerning the evidence provided in accordance with 8.3.
- 8.5 The Case Panel shall determine all procedural matters in the case as it considers fit in accordance with the Procedures. This shall include but shall not be limited to:

- 8.5.1 Stipulating how the proceedings shall be handled.
- 8.5.2 Considering the matter on the basis of written submissions and evidence.
- 8.5.3 To request further information from the parties.
- 8.5.4 To hold a hearing whether in person, by telephone or such other electronic communication system as may be deemed appropriate in all the circumstances.
- 8.6 A hearing conducted under these procedures is not a judicial or legal hearing. Evidence will not be delivered under oath. The Panel adjudicating a hearing, will however, endeavour to apply the rules of natural justice.
- 8.7 If the Respondent fails to appear at the time fixed for the hearing, or fails to attend following a second invitation without good reason, the hearing may be conducted in his or her absence if appropriate.
- 8.8 The Panel Secretary will take notes of the hearing that shall be retained by the Lead Officer for a period of at least 6 months following the conclusion of the proceedings.
- 8.9 The Case Panel will examine all the relevant evidence and reach their determination according to the standard of proof in civil law (i.e. whether on the balance of probabilities the allegation(s) is/are proved).
- 8.10 If proved, the Case Panel will decide whether any sanction should be imposed.
- 8.11 Where the Case Panel determines that any allegation has been proved they may revoke British Gymnastics membership or suspend British Gymnastics membership for a defined period with or without conditions and/or impose any other sanction available to the CMT set out in paragraph 6.10.
- 8.12 The Case Panel:
  - 8.12.1 Shall decide on the suitability of the Respondent to participate in gymnastics and shall have the power to suspend or revoke British Gymnastics membership.
  - 8.12.2 Shall consider whether appropriate controls could be put in place to manage the risk before determining that an individual's British Gymnastics membership be suspended or revoked.
  - 8.12.3 May make any other decision that it considers reasonable and proportionate in the circumstances.
  - 8.12.4 May recommend that the matter is referred to the Disclosure & Barring Service (DBS) or Access NI, where applicable.
- 8.13 Before reaching a conclusion, the Case Panel shall be entitled to make any reasonable enquiries it considers appropriate including requesting further specific information from either the Lead

Officer or the Respondent, seek such advice within British Gymnastics as it deems appropriate and/or seek external expert advice.

- 8.14 The Case Panel may choose to give reasons for its decision. If it does so, no appeal shall be initiated or continued solely on the ground of the adequacy of those reasons.
- 8.15 Each party shall bear its own costs (including but not limited to legal costs, scientific or other expert's fees, witness costs) in connection with the Complaint(s) made or appeals brought under the procedures.
- 8.16 The costs of any mediator shall be shared by the parties equally and the costs of any arbitration body appointed shall be borne by the parties in such proportions as the arbitration body shall rule at the conclusion of the matter.

## **9 Appeal Procedures**

- 9.1 The time limits set out in these procedures may be varied where appropriate and shall be determined by the Appeal Panel on application in writing by either party.
- 9.2 Either the Respondent or British Gymnastics may appeal a decision of the Case Panel.
- 9.3 Either party wishing to appeal a decision of the Case Panel must submit a written appeal notice and inform the other party no later than 14 days after the date on which the Case Panel's decision was sent to the parties. An appeal will normally be a review rather than a rehearing but the Appeal Panel shall have discretion to conduct the appeal as it considers appropriate.
- 9.4 The Panel Secretary shall advise the Respondent of the names and any relevant qualifications of those appointed as members of the Appeal Panel. Such appointment is to be made by the CEO or delegated person.
- 9.5 A hearing conducted under these procedures is not a judicial or legal hearing. Evidence will not be delivered under oath. The Panel adjudicating a hearing, will however, endeavour to apply the rules of natural justice. The Chair of the Appeals Panel shall decide how the appeal shall be handled and whether to hold a hearing in person, by telephone or such other electronic communication system as may be deemed appropriate in all the circumstances.
- 9.7 If the Respondent fails to appear at the time fixed for the hearing, without good reason, the hearing may be conducted in their absence if appropriate.
- 9.8 The Respondent may make a reasonable request to be accompanied at the hearing by writing to the Panel Secretary in good time before the hearing, advising the identity of the proposed individual.
- 9.9 The decision of the Appeals Panel shall be delivered in the form of a written decision with reasons. In the event:

- 9.9.1 That the Appeal Panel upholds the decision of the Case Panel against the Respondent, it may confirm the sanction imposed by the Case Panel or, in exercise of its discretion, impose such other sanction(s) as would have been open to the Case Panel to impose.
- 9.9.2 That the Appeal Panel overturns the decision of the Case Panel in relation to the Respondent, the Appeal Panel, in the exercise of its discretion, can impose such sanction as it sees fit would have been open to the Case Panel to impose had it found against the Respondent.
- 9.9.3 Concerning an appeal only against the sanction imposed, the Appeal Panel can exercise its discretion to affirm the sanction imposed by the Case Panel or substitute its own sanction(s) in place of that of the Case Panel.
- 9.10 A copy of the decision in writing will be sent to the Respondent and the Appeals Officer no later than 21 days following the completion of the appeal hearing.
- 9.11 The Panel Secretary will take notes of the hearing that shall be retained by the Lead Officer for a period of at least 6 months following the conclusion of the proceedings.
- 9.12 No British Gymnastics Appeals Panel will have the power to make an award of costs against either party.

## **10 Criminal convictions and information disclosed on a Criminal Record check**

- 10.1 The CMT shall have the power to sanction and/or impose control measures on an individual who has admitted to, or has been cautioned or convicted of, a criminal offence that is relevant to their role in the sport, or is deemed to be harmful to the reputation of the sport. The Respondent shall have the right of appeal within 14 days from the date on which the Respondent is notified of the CMT's decision. The matter could then be referred to the Case Panel who will determine the procedure for the hearing.
- 10.2 Where non-conviction information is disclosed on a criminal records check that the CMT consideration gives rise to concern about an individual's suitability to work or volunteer with children, young persons or adults at risk, the matter will be referred to the Case Panel for consideration under the safeguarding procedures.

## **11 General**

- 11.1 Where a Complainant, Respondent or witness requires adjustments to enable them to participate fairly in any aspect of the complaints and disciplinary process, the CMT will consult with the individual and, where considered reasonable, will ensure appropriate adjustments are made.
- 11.2 Appropriate advice and guidance will be provided to the Respondent and may also be provided to the witnesses or to the Complainant.



- 11.3 British Gymnastics shall meet the reasonable travel costs of any witnesses who may be required by British Gymnastics to attend any hearing as part of the disciplinary, safeguarding or appeal process. British Gymnastics shall not be liable for any other travel, subsistence or accommodation costs of the Respondent, any witnesses who may be required by the Respondent to attend any hearing, their adviser and/or companion nor for any fees which may be payable to any adviser.
- 11.4 Where a Respondent is under the age of 16 years, correspondence will be addressed to their parent or guardian only and they will be entitled to attend together with their child, if a complaint results in a hearing and make such representations as the parent or guardian thinks fit on the Respondent's behalf.
- 11.5 Where a Respondent is between 16 and 18 years, the CMT will be responsible for confirming whether the Respondent consents for copies of the correspondence to be provided to their parent or guardian. If a Complaint results in an appeal hearing, Respondents under the age of 18 are entitled to be accompanied by a parent or guardian.
- 11.6 With appropriate consideration to relevant matters of confidentiality, if any, British Gymnastics may publish, or cause to be published on its website or elsewhere, the outcome of a Case Panel and/or an Appeal decision and will notify the Complainant, Respondent and any affected club(s), affiliated associations or other persons or organisations, as appropriate, of the outcome.
- 11.7 Subject to any legal restrictions that prevent an individual from working with children, young persons and/or adults at risk; anyone who has had their membership of British Gymnastics revoked may apply to the Board to request a review five years after the date of the decision. If the individual was under 18 at the time of the decision, a review may be requested after a period of at least three years has elapsed. The Board's decision will be final.
- 11.8 British Gymnastics shall not be liable to any individual, club or organisation that is suspended or disqualified from gymnastics-related activity for any loss however caused arising out of or in connection with suspension or disqualification under this procedure.
- 11.9 If there are reasonable grounds to believe that a person, either individually or on behalf of an organisation, or body has not given full and truthful evidence, this conduct may be the subject of a separate charge of misconduct

## 12. **Dealing with Persistent/ Vexatious Complaints**

- 12.1 It is the intention of British Gymnastics to follow these procedures and do everything reasonably possible to resolve issues or complaints. Occasionally, however, Complainants or those who make allegations may place focus on their own concerns to the extent that it places undue strain on time and resources.
- 12.2 We expect that our staff and volunteers deal with individuals respectfully and in a professional manner and follow the appropriate procedures, however there are instances when nothing more can be reasonably done to rectify a real or perceived issue or concern. At

this stage, subject to the Complaints and Disciplinary Procedure being applied correctly and all reasonable action taken, it may be necessary to invoke the process for dealing with persistent or vexatious complaints.

**12.3 Definition of a vexatious complaint**

A vexatious complainant is someone who raises a complaint contentiously, without grounds and with little merit or substance or with the sole intention to cause annoyance or disruption.

**12.4 Definition of a persistent complaint**

A persistent complaint is where an individual persists in pursuing a complaint when appropriate procedures have been followed and exhausted.

**12.5 Handling Persistent Complaints or Vexatious Complaints**

The Lead Officer will consider the nature of the Complaints against the above criteria to enable him/her to confirm the complaint is considered by British Gymnastics to be vexatious or persistent and will determine a course of action from the following:

- 12.5.1 The Lead Officer try to resolve the issue in accordance with these procedures, by contacting the individual in writing to explain the difficulties and to set out a preferred method of behaviour for the parties involved. This may, for example, require the Complainant to communicate in a certain way i.e. in writing or with a specific individual.
- 12.5.2 The Lead Officer will decline contact with the Complainant or restrict contact to a specific format (as detailed above).
- 12.5.3 Notify the Complainant in writing that the Complaint has been fully responded to and there is nothing further to add; continuing contact will serve no useful purpose and that further correspondence will be acknowledged but not answered.
- 12.5.4 In extreme cases, it may be necessary to instruct legal proceedings to deter the individual from further contact.
- 12.5.5 The Board reserve the right to refuse admission or re-admission to any class of membership.

## **Annex A**

### **British Gymnastics (British Gymnastics) Case Management Team (CMT) Terms of Reference**

#### **1 Purpose**

- 1.1 The Case Management Team (CMT) are a cross departmental group of British Gymnastics employees whose function is to assess, agree and review the investigation and decision making approach, and make decisions in relation to all relevant complaints or concerns that involve British Gymnastics members and/or registered/affiliated organisations in accordance with the British Gymnastics Complaints & Disciplinary Procedures.
- 1.2 This includes but is not limited to the following areas:
  - 1.2.1 Safeguarding children, young persons and adults at risk.
  - 1.2.2 Equality and Inclusion.
  - 1.2.3 Health and safety.
  - 1.2.4 Discrimination.
  - 1.2.5 Ethical issues and misconduct.
  - 1.2.6 Poor Practice
  - 1.2.7 Criminal record disclosures.
  - 1.2.8 Data protection and privacy/confidentiality
  - 1.2.9 Breach of British Gymnastics Membership Rules, Policies or Standards of Conduct

#### **2 Underpinning principles**

- 2.1 The following principles underpin the work of the CMT:
  - 2.1.1 Effective inter-departmental working depends on good information sharing and accountability between individuals;
  - 2.1.2 Achieving early and timely case identification and intervention will reduce the potential for escalation and provide for better outcomes for all;
  - 2.1.3 Identifying and addressing individual and club support and learning needs may reduce the risk of harm to all involved and minimise the likelihood of future concerns;
  - 2.1.4 And in respect of concerns involving a child, young persons or adult at risk:
    - 2.1.4.1 The welfare of the child, young persons or adults at risk is paramount and each child's needs should be understood and central in all decision making.
    - 2.1.4.2 It is not the responsibility of the CMT to determine whether a child, young persons or adult at risk, has been harmed but it is the CMT's responsibility to ensure such concerns are reported without delay to the Police/Local Authority Designated Officer/Children's Services or other organisation as deemed appropriate.

### **3 Membership**

3.1 The CMT shall comprise the following roles:

- 3.1.1 Safeguarding Co-ordinator or Officer.
- 3.1.2 Safeguarding Manager.
- 3.1.3 Disciplinary & Compliance Officer
- 3.1.4 Integrity Director
- 3.1.5 Community Services Director.
- 3.1.6 Executive Director of Corporate and Community Services.

3.2 In addition, the following roles may also be invited to contribute to case discussions that relate to their area of responsibility or expertise and to participate in quarterly review meetings:

- 3.2.1 Compliance Officer
- 3.2.2 Head of British Gymnastics Foundation.
- 3.2.3 Head of Education or appointed delegate.
- 3.2.4 Performance Sport Director or appointed delegate.
- 3.2.5 Any other Director or department manager as deemed relevant and necessary.
- 3.2.6 Data Protection Officer (DPO)
- 3.2.7 Home Country representatives.

### **4 Meetings**

4.1 The CMT will meet as required where a case may meet the threshold for referral to the Police, Local Authority Designated Officer/Children's Services or to agree case outcomes.

4.2 The Team may meet in person or by telephone or video conference.

4.3 A member of the Integrity Unit will co-ordinate the meetings and will ensure that appropriate additional members are present.

4.4 The meetings will be chaired by a member of the Integrity Unit.

4.5 A monthly meeting will usually be held to review all active, closed and monitored cases to review and approve investigation and referral decisions made since the previous meeting.

4.6 The CMT may recommend any organisational learning and improvement.

4.7 Key points and actions from the meetings, along with any conflicts, should be noted and retained.

### **5 Quorum**

- 5.1 To be quorate, at least three members of the CMT in addition to the Lead Officer (not all drawn from the same investigating team) must participate in decisions.
- 5.2 In cases where any delay in action may compromise the welfare of a child or adult at risk and it is not possible to consult with a quorate CMT (e.g. out of hours/at weekends), an urgent referral may be made to the Social Care Services or Police and a quorate CMT held (either in a meeting or via correspondence) at the earliest opportunity.

## **6 Responsibilities**

- 6.1 Members of the CMT should declare immediately (to the team) any significant prior or current relationship, connection or interest that could affect his or her objectivity in a case and shall not participate in any decision making relating to the case.
- 6.2 All decisions relating to cases deemed by the CMT to be serious/high risk cases must be communicated to the CEO for information and any necessary action.
- 6.3 Where a decision has been made, which has not had unanimous support by all voting members, the CEO may be informed of the situation and advised of the supporting and opposing rationales to the decision and will be asked to determine which approach should be taken.

## **7 Record Keeping**

- 7.1 All case information will be retained for a period of at least three years from the date that the case is closed. In addition, case information that is deemed to be of a Safeguarding nature will be retained in line with the relevant Data Retention guidelines.

## **8 Reporting**

- 8.1 The Integrity Unit will provide a quarterly summary of all cases to the Board.

## **9 Confidentiality**

- 9.1 All case information is regarded as highly confidential and should only be disclosed outside the CMT meetings on a strict 'need-to-know' basis.

## **10 Amendment to Terms of Reference**

- 10.1 The Board (or a committee with delegated authority) may amend the Terms of Reference from time to time.

## **Annex B**

### **British Gymnastics (British Gymnastics) Case Panel Terms of Reference**

#### **1 Purpose**

- 1.1 The Case Panel is responsible for making decisions on complaints referred to it by the Case Management Team (CMT) in relation to:
  - 1.1.1 Misconduct complaints in accordance with the disciplinary procedures.
  - 1.1.2 Suitability decisions in accordance with the Safeguarding procedures.
  - 1.1.3 Appeals against sanctions imposed by the CMT.
  - 1.1.4 Referral by CMT to consider an individual's suitability to work following the receipt of non-conviction information on a Criminal Records Check.

#### **2 Membership**

- 2.1 A person designated by the CEO shall appoint three individuals to be members of a Case Panel and appoint one of them as Chair of the panel. The Case Panel may be required to hear more than one case in any one sitting.
- 2.2 Members of the Case Panel need not be drawn from within the sport of gymnastics but may include people with a technical knowledge of gymnastics and/or sport in general. The Panel may also include a member with experience in a relevant area of the law.
- 2.3 A panel secretary will be appointed to organise and take notes of the hearing.

#### **3 Meetings**

- 3.1 A member of the Integrity Unit will co-ordinate hearings and may act as Panel Secretary or arrange another person to carry out the role.
- 3.2 The Panel Secretary shall note the proceedings and decisions of the Case Panel.
- 3.3 Members of the Case Panel pool may be invited annually to review and monitor all decisions.

#### **4 Quorum**

- 4.1 A Case panel must be made up of at least 3 members including the Chair.

#### **5 Responsibilities**

- 5.1 Members of the Case Panel should declare any significant prior or current relationship, connection or interest that could affect their objectivity in a case immediately (to the panel secretary) and shall not participate in any decision making relating to that case.

5.2 The Case Panel shall determine all procedural matters in accordance with the British Gymnastics Complaints and Disciplinary Procedures.

## **6 Record Keeping**

6.1 All case information will be retained for a period of at least three years from the date that the case is closed. In addition, case information that is deemed to be of a Safeguarding nature will be retained in line with the relevant Data Retention guidelines.

## **7 Reporting**

7.1 The Integrity Unit shall report on the activities of the Case Panel and CMT to the Board.

## **8 Confidentiality**

8.1 All case information is regarded as highly confidential and must only be disclosed outside the Case Panel meetings on a strict 'need-to-know' basis. Panel members shall sign a confidentiality agreement at the time of appointment indicating their agreement to maintain the confidentiality, security and integrity of all materials during and after their involvement with the case.

## **9 Remuneration**

9.1 Members of the Panel may be remunerated by British Gymnastics for their work as a Panel member or Panel Chair or otherwise.

## **10 Amendment to Terms of Reference**

10.1 The Board (or a committee with delegated authority) may amend the Terms of Reference from time to time.

## **Annex C**

### **British Gymnastics Appeal Panel Terms of Reference**

#### **1. Purpose**

1.1 The Appeal Panel is responsible for making decisions on appeals referred to it in relation to:

1.1.1 Misconduct complaints in accordance with the disciplinary procedures.

1.1.2 Suitability decisions in accordance with the Safeguarding procedures.

1.1.3 Appeals against sanctions imposed by the Case Panel.

#### **2 Membership**

2.1 A person designated by the CEO shall appoint three individuals to be members of an Appeal Panel including appointing one as Chair. The Appeal Panel may be required to hear more than one case in any one sitting.

2.2 Members of the Appeal Panel need not be drawn from within the sport of gymnastics but may include members with a technical knowledge of gymnastics and/or sport in general. The Panel may also include a member with experience in a relevant area of the law but no member of the Appeal Panel will have had previous involvement in the case(s).

2.3 A panel secretary will be appointed to organise and note each meeting.

#### **3 Meetings**

3.1 The Appeal Panel shall meet when an appeal or complaint is to be considered.

3.2 The Appeal Panel may meet in person or where appropriate, by telephone or video conference.

3.3 A member of British Gymnastics staff may act as Panel Secretary or arrange another person to carry out the role.

3.4 The Panel Secretary shall note the proceedings and decisions of the Appeal Panel.

#### **4 Quorum**

4.1 An Appeal Panel must be made up of at least 3 members, including the Chair.



## **5 Responsibilities**

5.1 Members of the Appeal Panel should declare immediately (to the panel secretary) any significant prior or current relationship, connection or interest that could affect their objectivity in a case and shall not participate in any decision making relating to the case.

5.2 The Appeal Panel shall determine all procedural matters in accordance with these British Gymnastics Complaints and Disciplinary Procedures.

## **6 Record Keeping**

6.1 All case information will be retained for a period of at least three years from the date that the case is closed. In addition, case information that is deemed to be of a Safeguarding nature will be retained in line with the relevant Data Retention guidelines.

## **7 Reporting**

7.1 A member of the Integrity Unit shall report on the activities of the Appeal Panel, Case Panel and CMT to the Board.

## **8 Confidentiality**

8.1 All case information is regarded as highly confidential and must only be disclosed outside the Appeal Panel meetings on a strict 'need-to-know' basis. Panel members shall sign a confidentiality agreement at the time of appointment indicating their agreement to maintain the confidentiality, security and integrity of all materials during and after their involvement with the case.

## **9 Remuneration**

9.1 Members of the Panel may be remunerated by British Gymnastics for their work as a Panel member or Panel Chair or otherwise.

## **10 Amendment to Terms of Reference**

10.1 The Board (or a committee with delegated authority) may amend the Terms of Reference from time to time.